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November 25, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 92-3
RM-7874 and RM-7958

Dear Ms. Searcy:

Submitted herewith for filing, on behalf of our client, Schuyler H. Martin, permittee of Radio Station KPXA(FM), Sisters, Oregon, are an original and four copies of his Reply To Opposition To Petition For Declaratory Ruling in the above-referenced proceeding.

Please direct any inquiries concerning this submission to the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS &
HANDLER

By: 
Irving Gastfreund

Enclosures

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WASHINGTON, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.203(b)) MM Docket No. 92-3
Of The Commission's Rules) RM-7874 and
Table of Allotments) RM-7958
FM Broadcast Stations)
(Prineville and Sisters, Oregon))

REPLY TO OPPOSITION TO PETITION FOR DECLARATORY RULING

On November 18, 1992, Martin filed with the Commission a Motion to Strike, in which he demonstrated that the Petitioners'

1 The Petitioners included the following broadcast licensees:
Central Oregon Broadcasting, Inc. (licensee of KBND, Bend,
Oregon; and KLRR, Redmond, Oregon); Redmond Broadcast
Group, Inc. (licensee of KPRB and KSJJ, Redmond, Oregon);
Highlakes Broadcasting Company (licensee of KRCO and KIJK-
FM, Prineville, Oregon; JJP Broadcasting, Inc. (licensee of
KQAK, Bend, Oregon); Oak Broadcasting, Inc. (licensee of
KGRL and KXIQ, Bend, Oregon); Sequoia Communications
(licensee of KICE, Bend, Oregon); and The Confederated
Tribes of the Warm Springs Reservation of Oregon (licensee
of KTWS, Bend, Oregon; and KTWI, Warm Springs, Oregon).

November 13, 1992 Petition For Reconsideration in this proceeding was untimely and therefore not cognizable by the Commission on its purported "merits". In his Motion To Strike, Martin requested that the Bureau summarily strike the Petition For Reconsideration without consideration.

On November 19, 1992, Martin filed with the Commission his Petition For Declaratory Ruling herein, in which he requested that the Bureau expeditiously issue a declaratory ruling that the effectiveness of the Mass Media Bureau's October 7, 1992 Report and Order in this proceeding has not been automatically stayed, pursuant to Section 1.420(f) of the Commission's Rules, by the filing of the Petitioners' Petition For Reconsideration, in light of the untimely filing of the latter Petition.

On November 20, 1992, the Petitioners filed their joint Opposition to Martin's Motion To Strike. The Petitioners therein contended that this channel allotment rulemaking proceeding is not a "rule making of particular applicability", within the meaning of Section 1.4(b)(3) of the commission's Rules, that the deadline for the filing of Petitioners' Petition For Reconsideration was therefore not controlled by Section 1.4(b)(3), and that, therefore, their Petition For

Reconsideration was timely filed. In addition, November 20, 1992, the Petitioners filed with the Commission their Opposition To Petition For Declaratory Ruling. The Petitioners therein relied on the arguments which they made in their joint Opposition To Motion To Strike and contended that, since their Petition For Reconsideration was timely filed, Martin's Petition For Declaratory Ruling should be dismissed.


Contemporaneously herewith, Martin is filing with the Commission his Reply To Opposition To Motion To Strike. Martin therein demonstrates that the contentions of the Petitioners in their November 20, 1992 Opposition To Motion To Strike are devoid of merit and that the Petition For Reconsideration should be summarily stricken without consideration as untimely. Martin hereby incorporates by reference the entirety of his November 25, 1992 Reply To Opposition To Motion To Strike.

In light of the manifest untimeliness of Petitioners' Petition For Reconsideration in this proceeding, it is respectfully submitted that the public interest, convenience and necessity would best be served by expeditious issuance of the declaratory ruling requested by Martin, viz., that the effectiveness of the Report and Order in this proceeding has not

been automatically stayed, since such Commission action would facilitate the earlier improvement of the technical facilities of Radio Station KPXA(FM) so that the station may be able to serve significant additional areas and populations.

Respectfully submitted,

SCHUYLER H. MARTIN

By: 
Irving Gastfreund

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His Attorneys

November 25, 1992

CERTIFICATE OF SERVICE

I, Mary Odder, a secretary with the law firm of Kaye, Scholer, Fierman, Hays & Handler, hereby certify that I have on this 25th day of November, 1992, sent copies of the foregoing "Reply To Opposition To Petition For Declaratory Ruling" by First-Class U.S. Mail, postage prepaid, or via hand-delivery, as indicated below, to the following:

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*/ Via Hand-Delivery